

## IN SENATE

OF

## THE UNITED STATES,

DECEMBER 29th, 1817.

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 Read, and ordered to be Printed.
 

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To the Congress of the United States.

The General Assembly of the state of Tennessee, begs leave to address your honorable body, on the subject of the unsatisfied claims for land in this state, derived under the authority of the state of North Carolina.

In presenting to your view the wishes of the Legislature of this state, we will consider at the same time the memorial of the Legislature of North Carolina, presented to your body at the last session, relative to the same subject.

We unite with North Carolina, in calling to your attention the situation of this country. At the time when the respective laws of that state were passed, for the sale of her western lands, to discharge the debts created during the revolutionary war, she opened an office for the sale of her lands, as far as the banks of the Mississippi, and as a reward for the services of her officers and soldiers, she issued to each person, a warrant for such quantity of land, as his grade entitled him to receive. These warrants were directed to be surveyed in a district set apart for that purpose; officers were appointed to survey those lands, and different periods fixed, within which the same should be completed, and grants issued, which was enlarged from time to time, until the year 1792. At the date of the act of cession in 1789, all the land within the state of Tennessee, was subject to satisfy those different entries and warrants, except the country south of French Broad and Holston river, which was reserved for the use of the Cherokee Indians, by the fifth section of an act passed in the year 1783.

In the year 1789, North Carolina ceded to the United States all the vacant territory, in what is now the state of Tennessee, which cession was subject to certain conditions, one of which is as follows: "and when entries have been made, agreeable to law, and titles under them, not perfected by grant or otherwise, then and in that case, the governor for the time being, shall, and he is hereby required, to perfect from time to time, such titles, in such manner, as if this act had never been passed." At the time this act was passed by North Caroli-

na, and accepted by the United States, the time limited by the laws of that state, within which all the claimants were required to have their surveys furnished, and to procure grants, expired in the year 1792, and there was no reservation in said act of cession, that North Carolina might enlarge the time of making surveys and issuing grants: and it would seem as if North Carolina, had no other right to perfect titles on unsatisfied claims, except such as she could exercise within the time limited by her laws, which expired in the year 1792. The state of North Carolina, after the year 1792, discovered, that, from the Indian wars, and the unsettled state of the country, that but small progress had been made, towards completing and returning the surveys, by her officers, and being unwilling that her citizens should lose their claims, extended the time, by different acts, for making and returning surveys, until about the year 1800. In the mean time, the state of Tennessee, was admitted into the union, in the year 1796, as an independent state, and her Constitution was accepted by the United States. Upon the admittance of this state into the Union, and the acceptance of her constitution, no condition was imposed, which would deprive her of the ungranted land within her limits. Tennessee, accordingly in the year 1799, asserted her right to the ungranted land, as a consequence of her possessing an independent and sovereign government. The holders of warrants, issued by North Carolina, she insisted had no right to survey and obtain grants for land, unless those grants, had been issued within the time limited by the laws of North Carolina, when the cession from that state was made, in 1789, and that the United States, had ceased to possess any right to the vacant land, by not reserving her claim, when Tennessee was admitted into the Union, as an independent state. In consequence of this claim, and of the laws passed on that subject, the issuance of grants, was suspended by North Carolina. The state of Tennessee, afterwards became desirous, that the warrants issued by North Carolina, should be ripened into grants, and proposed to that state, that the right to perfect titles, on those warrants, should be transferred to her; and accordingly in the year 1803, North Carolina, passed an act, "authorizing the state of Tennessee to issue grants and perfect titles, to all claims of land, lying in the state of Tennessee which remained, and were by the act of cession of 1789, reserved to be issued and perfected, by North Carolina, upon the assent of the Congress of the United States being obtained thereto." In the year 1814, this act was ratified by the state of Tennessee, and the compact as between the two states was closed.

It then remained, that the assent of Congress should be obtained, and accordingly in the year 1806, the Congress of the United States, passed an act entitled "an act to authorize the state of Tennessee, to issue grants and perfect titles, to certain lands therein described, and to settle the claims, to the vacant and unappropriated lands within the same." We represent that the said act of 1806, did not comply in extent, with the wishes of this state. We would have preferred, that the assent of the United States, would have been given by Congress, to the full extent of the compact, between the two

states, but that honorable body, composed in part, of the Representatives and Senators, from each of those states, declined at that time, giving their assent, except so far as is expressed, in said act of 1806. The Indian titles having been extinguished about that time, to a considerable territory in this state, and there being numerous claimants, under North Carolina, residing in that state and Tennessee, who were anxious to procure grants, this state in the year 1806, enacted laws, to carry into effect the provisions of the act of 1803, as far as was permitted by the United States. Offices were established for entering lands, and for obtaining grants. Commissioners were appointed for adjudicating the warrants. In exercising this power, the Legislature of this state, authorized all the vacant lands to be entered, east of the Elk river line, except the lands, reserved for the use of the Cherokee Indians, by the act of 1783. Those offices have been kept open until this time, and all, or nearly all of the vacant land, fit for cultivation, has been entered and granted. In entering and obtaining titles, the citizens of North Carolina and Tennessee, have enjoyed equal advantages. There are yet remaining many warrants unsatisfied, and there is not land, east and north of said line, out of which to satisfy those claims; all of those warrants, as well as the entries originally located, south and west of the line, were by the laws of North Carolina, subject to be located in that section.

We further represent, that the Indian title, is now extinguished to a part of the country, south and west of the said Elk river line, and many persons are residing on the same, without any means of obtaining titles; many other citizens of North Carolina and this state, are possessed of entries and warrants, for land in the same section, who are desirous of having the same perfected into grants, but are at present deprived of that privilege.

Your honorable body, have been informed by the memorial of the Legislature, of North Carolina, that the right to issue grants in that section of the state, is claimed by North Carolina, and has been exercised under a law, passed in 1811; in pursuance of that act, a surveyor proceeded to receive warrants, and make surveys, and grants were issued to citizens of this state and Carolina, for about fifty thousand acres of the best land, south and west of that line, previous to the passage of the prohibitory act of this state, passed in the year 1812. It is believed that on principle, as well as in good policy, it was improper for Carolina to exercise this act of sovereignty at that time, in the manner pursued under her act of 1811. By her act of 1803, she had ceded to Tennessee this right absolutely, upon the assent of Congress, being obtained thereto. This state, by her act of 1804, had ratified and accepted of that authority and transfer, and held herself ready to comply, so soon as the United States, would give her assent; there was no time prescribed by the act of 1803, within which that assent, should be given by the United States. Congress, by the act of 1806, had ratified this compact between the two states, so far as to assent, to the exercise of this power by Tennessee, east and north of the Elk river line, without making any ar-

range for issuing grants to the west and south. Tennessee appointed commissioners to examine the claims, and separate the genuine from the spurious warrants. We were enabled to do this, by the record and checks, furnished by North Carolina. The citizens of both states, availed themselves of this regulation. Offices were opened, and grants issued for the land, as far as that line.

North Carolina and Tennessee were equally interested, that the same power should be exercised to the south and west of that line, and that the warrants should be examined, to prevent spurious claims from being granted, and that the grants should be issued and recorded in this state, near to the same place where the land was situated. We have no apprehension but that if the two states had made application to Congress, their assent would have been given that this state should perfect the remaining titles, south and west, wherever it was made to appear that justice to the holders of claims required it. But, without asking this state to unite in a request to that effect, or without requesting this state to permit North Carolina to reassume the power which she had vested in this state, by the act of 1803, the act of 1811 was passed, and the first notice given to this state, was the appearance of a surveyor, to do the duties of his office. There was no process provided by that act to separate the good from the bad warrants; all could be surveyed and granted indiscriminately, which might be done to the great injury of the holders of good warrants. The exercise of that power was considered as calculated to encourage the adventurous, who were willing to hazard obtaining grants from North Carolina, while others, whose claims were equally good, would hesitate to obtain titles, under a law, where the question of right would be controverted, and were very doubtful. Therefore the law of 1812 was passed. The intention of this state was to prohibit the exercise of this authority, until the question should be settled by the states, and to prevent the interest of individuals from being involved in that question. A complaint is also made, in the same memorial, against the condition in the act of 1806, authorizing Tennessee to appropriate 200,000 acres of land for the use of colleges and academies, within the limits of the lands reserved by North Carolina to the Cherokee Indians. By examining the laws of North Carolina, it will appear that there never was any law passed by that state, either before or after the cession act, authorizing surveys to be made, or grants to be issued, in that tract of country; and if any grants had been issued by her officers, the same would be void; and it is believed by us, that, by virtue of the act of 1803, passed by North Carolina, that this state was prohibited from issuing grants on warrants in the same tract. The following is a part of that act: "That no grant shall be issued by the state of Tennessee for any lands, which, by the aforesaid act, (meaning the cession act of 1789,) and the laws of this state, then in force, or made in pursuance thereof, since the passing of said act, might not have been issued by this state; nor shall any grant be valid but those issued on bona fide claims, and within the provisions and reservations of the before re-



cited act, and such as would have been valid if the same had been issued by this state, under the act aforesaid, and the laws then in force, and such as have been since made, in pursuance of the said act of cession." If Tennessee was prohibited from issuing grants on warrants in that tract, why should North Carolina complain of this provision in the act of 1806? It could not be any injury to the citizens of North Carolina, that the liberality of the United States should permit Tennessee to make any appropriation for the support of seminaries, for the education of youth, in the country where their warrants could not be granted. The country south and west of the Elk river line, was, at all times, subject to the satisfaction of the warrants issued by North Carolina—her laws authorized them to be surveyed and granted there. Grants already have been issued by that state, previous to 1806, for the best lands in that section, according to the entries made or the surveys returned by her officers; but there are yet many other entries on warrants located in the same section, in addition to the removed warrants issued by that state, and the military warrants which have not been granted, east and north of that line, which the holders of them are desirous of procuring grants on; and since there is not land east and north to satisfy those claims, we unite with North Carolina in representing, that such warrants ought to be surveyed and granted, wherever there is vacant land west and south of said line. It will remain for your honorable body to decide whether those grants ought to be perfected by North Carolina or by this state. Some provisions ought to be made for ascertaining such warrants and evidences of claim as are genuine and ought to be granted, and which are located west and south of the said line. All of the warrants and other evidences of claim, which had not been thus located, have been adjudged, recorded, and sanctioned, by a board established by this state for that purpose, in pursuance of the several acts, authorizing Tennessee to perfect titles. This was done under the restrictions of the records and checks furnished by North Carolina. Those are held indiscriminately by citizens of North Carolina and this state, and we are not willing to agree that the same should be re-examined. Such a course would produce much inconvenience, and unnecessary trouble and expense. In adjudicating the claims not examined, we are willing to adopt any course which may be thought conducive to the interest of the bona fide claimants. It would produce much confusion in the situation of land titles in this state, to repeal any part of this act of 1806, in the manner requested by North Carolina. Citizens of both states have acquired titles under the provisions of this act. They ought not now to be disturbed. We, therefore, protest against that part of the request of the memorial of North Carolina, but we solicit your honorable body to pass an act in addition, or supplemental to the act of 1806, giving your assent that the state of Tennessee shall proceed to perfect titles west and south of the Elk river line, upon all unsatisfied claims which exist against North Carolina, and which are good and valid, and that in perfecting such titles in that tract, the provisions of the act of 1803 and 1804

shall be adhered to; and that some correct mode shall be adopted, either by a board of commissioners, or otherwise, for ascertaining the validity of such ungranted claims as have not been already adjudged by the respective boards in this state.

Resolved, That a copy of the preceding memorial be forwarded to each of the Senators and Representatives from this state, in the Congress of the United States, and that a copy of the same be laid by them before that body.

**THOMAS WILLIAMSON,**

*Speaker of the House of Representatives.*

**EDWARD WARD,**

*Speaker of the Senate.*

**November 18, 1817.**

*The state of Tennessee,*

*Secretary of State's office.*

I, William Alexander, secretary of the said state, certify that the foregoing is a true copy from the original, deposited in this office.

Given under my hand, at office, in Knoxville, the 13th day of December, 1817.

**W. ALEXANDER.**

